JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

WRIT PETITION NO. 985 of 2025

FEDERAL EMPLOYEES COOPERATIVE HOUSING SOCIETY THROUGH ITS PRESIDENT KARAMAT ALI

Vs

FEDERAL INVESTIGATION AGENCY, ETC.

Petitioner by	**:**	**Mr. Shafqat Ullah Waris and Mr. Haris Bashir, Advocates.**
Respondents by	**:**	**Ch. Usman Bashir Advocate for Respondent No.5.** **Raja Zamir ud Din, AAG.** **Mr. Umer Arsalan, A.D, FIA.** **Ms. Safia Shahmir S.I, FIA.**
Date of hearing	**:**	**23.04.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan (**"Constitution"**), the Petitioner has assailed the notice under Section 5(5) read with Section 5(1) of the Federal Investigation Agency Act, 1974 in Enquiry No.25/2023 dated 10.01.2025, Anti-Money Laundering Circle **(AMLC)**, Islamabad **("Impugned Notice")**, issued by Sidra Rana, Enquiry Officer/S.I., FIA AMLC, Islamabad. The Petitioner further prayed that Respondents No.1 & 3 may kindly be restrained from summoning or harassing him and others.

2. The brief facts of the instant case, as per the contents of the petition, are that the Federal Employees Cooperative Housing Society, Islamabad **("FECHS")** is registered under the Cooperative Societies Act, 1925 in the Cooperative Societies Department, Islamabad, whose affairs are governed by the Management Committee. The Management Committee of the Society is elected for a term of three years under the Cooperative Societies Act, 1925, the Islamabad Cooperative Societies Rules, 2018, and the Islamabad Cooperative Societies Election Rules, 2019. The incumbent Managing Committee of the FECHS was elected vide Notification No.2956/CR/ICT/B dated 22-08-2022 and took charge on 05-01-2023. The Petitioner entered into an agreement with Respondent No.5 [Intelligence Bureau Employees Cooperative Housing Society, Islamabad] vide Agreement No.2551 dated 05-10-2016, and Respondent No.5 allotted 53 Farm Houses in the name of the

Petitioner in lieu of the above-mentioned agreement. When the incumbent Management Committee took charge, there were a large number of allottees who had not been handed over possession of plots. Therefore, the Management Committee decided to dispose of the Society's assets to accommodate such affectees. For this purpose, the Management Committee placed the matter before the Annual General Meeting, which approved the proposal; minutes of the meeting were also approved by the Registrar. Call-up notices in Enquiry No.25/2023 of PS FIA Anti-Money Laundering, Islamabad were issued by Respondent No.3 to the members of the Management Committee of FECHS to respond to questions relating to an ongoing criminal investigation regarding allegations of money laundering against the General Secretary of FECHS, namely Wajid Naseem Sahi, the Joint Secretary Zeeshan Gul, and others. During the enquiry, the Enquiry Officer informed that the matter had been initiated under AMLA on the complaint of Musa Bashir Sahi and in FIR No.11/2023 registered at P.S. DACE, Punjab, Lahore. A notice dated 06-12-2024 was also issued to Shujaat Ullah Qureshi / Respondent No.5 regarding the same enquiry, which pertained to allegations of investment by Farah Gogi through placement and layering of proceeds of crime in the purchase of the said Agro Farms. Respondent No.3 issued the Impugned Notice under Section 5(5) read with Section 5(1) of the FIA Act, 1974 in Enquiry No.25/2023, AMLA, Islamabad, directing Respondent No.5 not to transfer or otherwise dispose of the properties in Jinnah Garden until further orders. Being aggrieved by the Impugned Notice dated 10.01.2025, the Petitioner filed the instant petition.

3. The learned counsel for the Petitioner argued that the impugned action tantamount to illegally harassing the Petitioner by Respondent No. 3, whose jurisdiction does not extend to the above-mentioned act; that the Impugned Notice is against Section 3 of Anti-Money Laundering Act; that the Respondents No. 1 to 3 misused their authority just to harass and blackmail the Petitioner, as properties mentioned in the Impugned Notice, neither owned by the alleged accused, nor the complainant produced any document related to them; that the enquiry was initiated on the complaint of one Musa Bashir Sahi/Respondent No.4 filed through online Complaint Cell and he never appeared before the Respondents No.1 to 3; that the Respondent No. 4 was neither Member of the FECHS, nor he ever appeared before the Respondents Nos.1 to 3; that the complainant is a fictitious person, and even whose identity does not exist; that the duration of the crime mentioned in FIR No.

11/2023 registered with P.S Director Anti-Corruption Establishment Punjab, Lahore, is the tenure of Ex-Chief Minister Usman Buzdar, who remained chief Minister of Punjab from 20th August 2018 to 30th April 2022, but the Respondent No.3 knowingly issued a Notice under Section 5(5) read with Section 5(1) not to transfer the property which was transferred in the name of the Petitioner in the year 2016 vide an agreement executed between Petitioner and Respondent No.5; that the impugned act of Respondents No.1 to 3 is illegal, unlawful, without lawful authority, *coram non judice*, and *void ab initio*; that the instant enquiry is a result of *malafide* on the part of Respondents No. 1 to 3, which notwithstanding the fact of having no jurisdiction in the matter, have attached the property in order to cause irreparable loss to the Society; that the Petitioner has no other alternate, adequate, efficacious, and speedy remedy but to invoke the jurisdiction of this Honorable Court.

4. On the other hand, on behalf of Respondents No.1 to 3, it is argued that the FIA is formed under the Federal Investigation Agency Act, 1974, passed by the Parliament of Pakistan; that the Investigation Officers of the Agency conduct enquiry/investigation under Section 5 of FIA Act, 1974; that the complaint in the Enquiry No. 25/2023 dated: 28.09.2023 of FIA, Anti Money Laundering Circle, Islamabad was registered on the complaint of Respondent No. 4/Musa Bashir Sahi through E-mail; that during the course of verification, the complainant did not appear to pursue his complaint, hence the same was registered as a Source Report under SOP#07/2022; that the complainant alleged that the front man of Farah Gogi, namely Masood Bashir Warraich, invested Rs. 160 million with Wajid Naseem Sahi General Secretary and Zeeshan, Joint Secretary of Federal Employees Cooperative Housing Society (FEHCS), in the purchase of Gulberg Agro Farms through auction; that the complainant further alleged that FEHCS sold 07 Farm Houses, and it is suspected that the money used to purchase these farm houses is potentially linked to money laundering; that additionally, the complainant also provided an FIR No.11/2023 registered at Police Station Directorate of Anti-Corruption Establishment Punjab Lahore against Farah Gogi and others, alleging that Wajid Naseem Sahi and Zeeshan in connivance with them have invested the money used to purchase the farm houses which are proceeds of crime mentioned in said case; that the FIR No.11/2023 was registered u/s 161/162/163 PPC and 5(2) 1947, constituting a predicate offence under Schedule I of the Anti-Money Laundering Act 2010 (amended 2020); that the FIA is competent to initiate enquiries and investigations on complaints of money

laundering if the commission of a predicate offence, which in this case is offence under section 161/162/163PPC and 5(2) 1947, has been established; that the predicate offence has been outlined in section 2 (xxvi) of AMLA, 2010; that similarly, the definition of money laundering has been provided in Section 3 of AMLA, 2010, therefore, the Impugned Notice under Section 5(5) of FIA Act, 1974 was issued as it was alleged in the complaint that the properties i.e. Gulberg Agro Farms are proceed of the crime of a predicate offence mentioned in FIR No.11/2023; that during the course of an enquiry, letters u/s 25 AMLA, 2010 (amended 2020) were written to various concerned authorities/departments for the provision of record; that upon receipt of record and conducting its scrutiny, several illegalities has been found which also needs to be probed. Following is the detail:-

(i) An agreement bearing No.2551 dated 05.10.2016 was executed between the then-management of the Federal Employee Cooperative Housing Society (FECHS) and the Intelligence Bureau Employee Cooperative Housing Society (IBECHS), by the terms and conditions set forth therein. Pursuant to the execution of the said agreement, land measuring 608 Kanals and 01 Marla, situated in Mouza Boura Bangial, Tehsil & District Islamabad, was transferred in favour of IBECHS. In consideration thereof, the management of IBECHS allotted and transferred 53 agro farm plots, each measuring 4 Kanals and situated in Block B of Gulberg, to FECHS. However, as per record received from Circle Registrar vide letter No.144 situated in Block B of Gulberg Greens, to FECHS. However as per record received from Circle Registrar vide letter No.1144 CR/ICT/B dated 10-4-2025, no approval was accorded to FECHS over the exchange of land measuring 608 Kanals and 01 Marlas of land situated in Mouza Bora Bangial with Intelligence Bureau Cooperative Housing Society and as per the record of FECHS dated 09-4-2025, no such resolution regarding the transfer of land measuring 608 Kanals & 01 Marla in the name of IBECHS was placed, which not only violates byelaws of society but also Rule 27 & 54 of Cooperative Societies Act 1925.

(ii) Accordingly, the current Managing Committee of the Federal Employees Cooperative Housing Society (FECHS) conducted an auction of 12 out of the 53 Gulberg Agro Farms on 23.06.2023. In the minutes of meeting/report issued by Office of Circle Registrar submitted that out of 12 Agro Farms only 07 Agro Farms were successfully auctioned, while no bids were received for the remaining 05 farmhouses. However, Agro Farm bearing plot No. 283, street pine avenue south Block B, measuring 2,400 square yards, was sold to Mrs. Shahnaz Farid W/o Qazi Ghulam Fareed in Rs.2,60,00,000/- outside the prescribed auction procedure despite having been initially approved for sale through auction. The available record also shows that the payment is received as a cash nor deposited in the society's official account.

(iii) However, an addendum dated 03.06.2024 to under the Agreement No. S770269 dated 20.05.2024 executed with Malik Amir Mamoon for the acquisition of approximately 2,802 Kanals of land situated in Mouza Kanyal, Thatthi Gujran, Hattar, and Ghari Hassu Khan, Tehsil Fateh Jhang, Rawalpindi Division was issued in which the current Managing Committee of the Federal Employees Cooperative Housing Society (FECHS) unilaterally replaced the eight Gulberg Agro Farms including above mentioned Agro Farms bearing agro farm No.283, initially allotted to the land provider, Mr. Malik Amir Khan, with alternative agro farms. This substitution was carried out without providing any cogent justification and in violation of taking initial approvals from the provisions of the Cooperative Societies Act.

Lastly, the learned counsel prayed that the instant Writ Petition may kindly be dismissed being not maintainable and devoid of merit, and the notice dated 10.01.2025 may be restored.

5. The learned counsel appearing on behalf of Respondent No.5 also resisted the arguments advanced by learned counsel for the Petitioner and prayed for dismissal of the instant Petition.

6. I have heard the arguments of learned counsel for parties and perused the available record with their able assistance.

7. Before delving into the merits of the case, it is pertinent to observe that the Petitioner has assailed a call-up notice issued at the preliminary stage of enquiry. However, the Respondents are empowered to proceed under Section 5(5) read with Section 5(1) of the Federal Investigation Agency Act, 1974. The Petitioner has failed to demonstrate that the FIA issued the call-up notice without lawful authority, or that it is ultra vires or lacking in jurisdiction. It is trite law that a writ may be issued against a call-up notice or show cause notice issued by the FIA in a money laundering case only where the notice is patently illegal or without jurisdiction. However, instead of responding to the call-up notice and cooperating with the enquiry, the Petitioner prematurely invoked the jurisdiction of this Court. Interference in an ongoing enquiry not only disrupts the lawful process but also impedes the performance of statutory functions. In this regard, reliance is placed on the judgment of the august Supreme Court in *"Al Ahram Builders (Pvt.) Limited v. Income Tax Appellate Tribunal"* **(1993 SCMR 29)**, wherein it was held that a constitutional petition against a mere notice was not maintainable. Similarly, in *"Virasat Ullah v. Bashir Ahmad, Settlement Commissioner (Industries) and another"*

(1969 SCMR 154), the apex Court deprecated the filing of constitutional petitions at the stage of notice. In *"Khalid Mehmood Ch. v. Government of Punjab"* **(2002 SCMR 805)**, it was held that issuance of notice is a preliminary step and invoking Constitutional jurisdiction at that stage is premature. Further guidance is drawn from the following judgments: *"Muhammad Mahmood Ali v. Pakistan"* **(1984 CLC 142)**, ***Civil Petition No.4177 of 2024*** where leave to appeal was declined in similar circumstances.

8. Similarly, in the facts and circumstances of the instant case, High Court in its judgment "*Muhammad Akhtar Sherani and 35 others Vs. The Punjab Textbook Board, Lahore and 4 others*" **(2001 PLC (C.S) 939))** held that a mere notice to appear so as to answer allegations did not amount to an adverse order and a Constitutional Petition was therefore, not maintainable. *"Mughal-e-Azam Banquet Complex through Managing Partner Vs. Federation of Pakistan through Secretary and 4 others"* **(2011 PTD 2260)** at 2263 explains the rationale behind the doctrine of ripeness. It declares and compares prematurity or lack of ripeness to apprehensions or mere speculation. It declares that there had to be a concrete or tangible context for the Court to act. In Paragraph 6 of this judgment, very illumination observations with reference to the investigative process or the process of inquiry have been made. The judgment explains that in the case of a premature matter, there is the danger of stultifying and stalling the discharge of statutory duties.

9. That, in the case titled *"Messrs Chakwal Textiles Mills Limited, Rawalpindi Road Chakwal and another Vs. Director Social Security, Rawalpindi and 2 others"* **(2012 PLC 270)** it has been held to the same effect. In "*Abdul Raheem Khan, Executive Manager (Operation) MEPCO 1st Division, D.G. Khan Vs. Managing Director PEPCO, WAPDA House, Lahore and 2 others"* **(2011 PLC (C.S.) 1551)** a Division Bench has also deprecated the filing of a Constitutional Petition against mere issuance of notice. In "*Mst. Zahida Shama Vs. Secretary Education and other*" **(PLJ 2002 Lahore 1479)**, the stage of a notice to appear and answer allegations has been held to be not one where it could be said that some adverse action had been taken against the person approaching the Court.

10. In case reported as "*Niaz A. Baloch Vs. Chairman, National Accountability Bureau and 2 others*" **(2008 PCr.LJ 1463)**, a Division Bench of the Sindh High Court has held that inquiry or investigation under a Notice issued by the National

Accountability Bureau could not be thwarted or stultified because it was the duty of the Investigation Agency to find out the truth and discover actual facts. The Bench approved attendance of the petitioner before the NAB Authorities in due course of law. Likewise, in "*Tariq Mehmood Vs. Air Cdre. (R) Nayyar Q. Khawaja and 4 others*" **(2003 PCr.LJ 1512),** a Division Bench of the Lahore High Court approved investigation and inquiry as a result of notice issued by NAB and held there was no bar on the Accountability Bureau to issue notice and as a result thereof to hold an inquiry.

11. The doctrine of pre-maturity and ripeness suggests that a matter is not amenable to adjudication in Constitutional jurisdiction if it is either premature or not ripe for adjudication. The act impugned by the Petitioner does not give rise to any concrete or justiciable grievance capable of being redressed under the law. It is the statutory responsibility of Federal Investigation Agency to enquire into a crime which falls within its jurisdictional competence and interference at the enquiry stage will definitely affect its working. To entertain judicial review at such an incipient stage would tantamount to somewhat retarding statutory duties and obligations. In the present matter, any interference at this stage would impede the statutory duty of the Federal Investigation Agency to inquire into an offence falling within its jurisdictional domain.

12. With these observations, this Court is of the view that the enquiry initiated by the Respondents must be allowed to reach its logical conclusion. If the Petitioner remains aggrieved following the outcome of the enquiry, an appropriate remedy is available under the law. Resultantly, the instant Writ Petition is **dismissed as premature.**

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____day of May 2025.

JUDGE

Sajid/--